

§ 1924.266 Purposes for which claims may be approved.

(a) *Eligible purposes.* A claim may be approved to:

(1) Pay, or reimburse the borrower for costs already paid, to repair major structural defects which are completed in accordance with plans and specifications approved by FmHA or its successor agency under Public Law 103-354. Repairs must be made by a reputable licensed contractor and a warranty covering the repairs will be issued by the contractor when the repairs are completed, as prescribed in subpart A of this part. Payment will be based on actual cost of the development and the borrower must provide evidence to reasonably establish the development cost. Workmanship and materials used in repairs must be consistent with the level of quality specified in the original dwelling or unit specifications and/or comparable to the items being replaced. Payment may be made:

(i) To cover damages which are a direct result of the defect to permanent enhancements made, such as landscaping, completion of unfinished living spaces, etc., of the dwelling or unit, installation or set-up of the unit, or related facilities, and

(ii) For costs approved by FmHA or its successor agency under Public Law 103-354 for professional reports by engineers, architects or others needed to determine cause of or means to repair the defect.

(2) Reimburse the borrower for funds expended for emergency repairs. Emergency repairs are those repairs necessary to preserve the integrity of the structure, to prevent damage or further damage to personal property or fixtures in the dwelling or unit and related facilities, or to prevent or eliminate immediate health hazards. Receipts or other evidence of borrower's expenditures must be provided.

(3) Acquire title to the property by the Government and, when appropriate, compensate the claimant for any loss of borrower contribution at the time the loan was closed. Conveyance of properties under this section will be handled in accordance with 7 CFR part 3550.

(i) Before FmHA or its successor agency under Public Law 103-354 accepts a conveyance, the borrower must attempt to sell the dwelling or unit in accordance with 7 CFR part 3550, if the dwelling or unit is considered decent, safe and sanitary as prescribed in 7 CFR part 3550. If the property is sold, FmHA or its successor agency under Public Law 103-354 will:

(A) Pay the borrower's relocation expenses, including temporary living expenses as prescribed in paragraph (a)(4) of this section, until another suitable property can be located;

(B) Pay related sales expenses, as prescribed in 7 CFR part 3550, if the property is sold for less than the debt against it;

(C) Release the borrower from personal liability for the remaining FmHA or its successor agency under Public Law 103-354 debt; and

(D) Process an application for a new RH loan if the borrower so desires and is still eligible for FmHA or its successor agency under Public Law 103-354 assistance.

(ii) If the dwelling or unit is not considered decent, safe and sanitary as prescribed in 7 CFR part 3550, FmHA or its successor agency under Public Law 103-354 should accept a voluntary conveyance of the property under the provisions of 7 CFR part 3550. Compensation for properties taken into inventory under this paragraph may not exceed the difference between the present market value of the security as established by the appraisal when the loan was made and the amount of the FmHA or its successor agency under Public Law 103-354 loan and any prior liens.

(iii) A borrower contribution which may be compensated for under this paragraph may be such things as:

(A) A borrower's land or cash contribution,

(B) Development work done by the borrower under the self-help program or borrower method of construction, the cost of which was not included in the loan funds,

(C) Attorney fees, abstract costs or title insurance costs actually paid by the claimant in connection with closing the loan.

(4) Pay or reimburse the borrower for temporary living expenses, miscellaneous expenses, storage of household goods and moving expenses incurred as a result of the defect.

(i) Payment under this paragraph may be made under either of the following circumstances:

(A) The property is acquired by the Government in accordance with 7 CFR part 3550 and FmHA or its successor agency under Public Law 103-354 determines that the dwelling is not habitable and the severity of the defect(s) prevents the property from being repaired and made suitable as a permanent residence for the borrower.

(B) The property is not acquired by the Government but FmHA or its successor agency under Public Law 103-354 determines that the dwelling is not habitable or must be vacated in order to repair the defects.

(ii) Claims for compensation under paragraph (a)(4) of this section are limited as follows:

(A) Compensation may be granted for temporary living expenses for not more than 45 calendar days per claim unless a longer period is authorized by FmHA or its successor agency under Public Law 103-354. Compensation will be paid for actual cost to the claimant not to exceed the Government per diem rate for the area where the borrower's dwelling or unit is located. Reimbursement may be claimed for expenses such as food, lodging, laundering, etc., which would not have been incurred had the claimant remained in the house.

(B) Compensation may be granted for actual miscellaneous expenses not to exceed \$500 to cover such items as utility connect and disconnect fees.

(C) Compensation may be granted for moving and storage expenses not to exceed \$5,000 unless authorized by FmHA or its successor agency under Public Law 103-354 and not to exceed the actual cost of moving the claimant household with personal belongings a distance of not more than 50 miles from the original residence. Compensation for storage expenses may not exceed that amount paid to store household furnishings for 45 days.

(D) A strict accounting of the use of such funds must be maintained by the

borrower and will be verified by FmHA or its successor agency under Public Law 103-354.

(5) Compensate the claimant for reasonable interest paid on loans obtained for the sole purpose of correcting structural defects or other approved purposes under this section.

(b) *Ineligible purposes.* Compensation will not be granted for:

(1) Completion of a dwelling or unit or installation of materials/items required under the construction contract and/or specifications.

(2) Defective items which were not completed under the contract method or under the conditional commitment and supported by a builder's warranty. Work performed under the borrower method or self-help program without a warranty by a responsible party is not eligible for compensation.

(3) Damage caused by defective design, workmanship, or material in making enhancements to or remodeling the dwelling or unit or related facilities which were not financed or approved by FmHA or its successor agency under Public Law 103-354.

(4) The loss of past, present or future wages or salary directly or indirectly resulting from the defect.

(5) Treatment for physical or psychological damages including medical and dental claims.

(6) Death benefits or funeral expenses.

(7) Damages encountered as a result of war, civil disorder, flood, tornado, lightning, earthquake or acts of nature which the structure was not designed to withstand.

(8) Damages resulting from the homeowner's negligence or failure to properly maintain the property.

(9) Damage to personal property.

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§§ 1924.267-1924.270 [Reserved]

§ 1924.271 Processing applications.

An application for compensation for construction defects shall be submitted by the claimant to FmHA or its successor agency under Public Law 103-354 on the designated form (available in any FmHA or its successor agency under Public Law 103-354 office). The